

★ JAN 14 2020 ★

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

----- X BROOKLYN OFFICE
DR. GERALD R. FINKEL, as Chairman of the Joint :
Industry Board of the Electrical Industry, :

Petitioner, : **MEMORANDUM DECISION**
: **AND ORDER**
- against - : 19-CV-00486 (AMD) (RML)

POTENZA ELECTRICAL CORP., et al, :

Respondents. :
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ANN M. DONNELLY, United States District Judge:

On January 24, 2019, the petitioner brought this action seeking confirmation of an arbitration award and asking the Court to award certain additional damages and fees against the respondents pursuant to section 502(a)(3) of the Employee Retirement Income Security Act of 1974 (“ERISA”), codified as amended, 29 U.S.C. § 1132(a)(3) and section 301 of the Labor Management Relations Act of 1947, codified as amended, 29 U.S.C. § 185. (ECF Nos. 1, 4.) Neither respondent answered or otherwise moved with respect to the petition.

On March 1, 2019, I referred the petition to Magistrate Judge Robert M. Levy for a report and recommendation. On March 4, 2019, the petitioner moved for summary judgment on the unopposed petition. (ECF No. 10.) On November 26, 2019, Judge Levy recommended that I grant the petitioner’s motion for summary judgment and confirm the award. (ECF No. 12.) Judge Levy also recommended that damages be awarded as set forth in his report and recommendation. (*Id.*) No objections have been filed to the report and recommendation, and the time for doing so has passed.

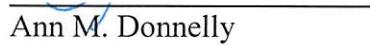
A district court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). To accept those portions of the report and recommendation to which no timely objection has been made, “a district court need only satisfy itself that there is no clear error on the face of the record.” *Jarvis v. N. Am. Globex Fund L.P.*, 823 F. Supp. 2d 161, 163 (E.D.N.Y. 2011) (internal quotation omitted).

I have reviewed Magistrate Judge Levy’s thoughtful report and recommendation and find no error. Accordingly, I adopt the report and recommendation in its entirety and order that the arbitration award be confirmed and that damages be awarded as set forth therein, for a total judgment of \$555,353.79:

- (1) Respondent Potenza Electrical Corp. be held liable for the total award amount of \$552,570.29, plus pre-judgment interest on the unpaid contributions accruing at a rate of \$61.54 per day from the date of the award through the date of entry of judgment, attorney’s fees of \$2,308.50, and costs of \$475; and
- (2) Respondent Michael Tarantino be held jointly and severally liable with Potenza for \$5,534.63 of the total award amount.

SO ORDERED.

s/Ann M. Donnelly


Ann M. Donnelly
United States District Judge

Dated: Brooklyn, New York
January 13, 2020